

1 Tony H. Ashtiani
P.O.Box 12723
2 Tamuning Guam 96931
671-688-4844
3 671-653-5575

4 UNITED STATES DISTRICT COURT

5 DISTRICT OF GUAM

6 Tony H. Ashtiani,)

7 Plaintiff,)

8 Vs.)

9 Continental Micronesia Inc,)

10 Db, Continental Micronesia,)

11 Continental Airlines,)

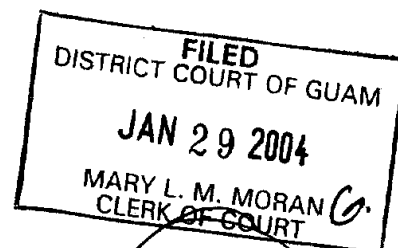
12 Defendant)
13)
14)

Civil Case No.: 02-00032

AMENDED REQUEST FOR ISSUANCE OF
ORDER.

Local Rule 7.1 (d) (2)
Local Rule 7.1 (f)

15
16 In pursuant to Federal Rule Civ. P. 15(a) ("A party may amend the
17 party's pleading once as a matter of course at any time before a
18 responsive pleading is served or, if the pleadings is one to which no
19 responsive pleading is permitted and the action has not been placed
20 upon the trial calendar, the party may do so amend it at any time
21 within 20 days after it is served"). Plaintiff makes amendments as to
22 clerical error in caption from LR 7.1(2)(C) to LR 7.1(d)(2) and in
23 pages 3 and 4 from 7.1(C)(2) to LR 7.1(d)(2).
24
25



1 In pursuant to Local Rule 7.1, Defendant missed its' dead line on
2 due date with no reply as discussed in forgoing and is dragging the
3 plaintiff and Court in to it. These types of actions shall not be
4 tolerated and it is unfair and injustice for defendant continuously
5 making plaintiff to file documents to explain their misleading,
6 negligence and making me as if I had anything to do with it. These
7 conducts would drive a common man to edge of insanity. This is none
8 sense and no one should put up with this and it shall stop at once
9 because it forces extra filings and crowds the Court.
10

11
12 On December 26, 2003 plaintiff was served with "Defendants Motion
13 to strike affidavit of Tony H. Ashtiani and attached Exhibits 1-55 on
14 December 19, 2003." Exhibit A. Plaintiff filed his opposition on
15 December 31, 2003 and January 09, 2004, timely within 14 days of
16 service, Joint Exhibits B. Defendant had denied me hearing on December
17 30, 2003, to have our motion heard, Exhibit C. Therefore "Motions Not
18 set For Oral Argument". It is noteworthy defendant deceived me and
19 misled me to amend my pleadings from Cross Motion to Counter Motion by
20 their letter, thereon after defendant filed several Motion to Strike
21 and called my motion untimely.
22

23 LOCAL RULE 7.1(2)(B) States "The moving party may, not less than
24 seven (7) calendar days after service of the opposition, serve and file
25

1 a reply to the opposing party's opposition." Rather defendant filed two
2 pleadings on Jan 16, 2004.

3
4 1) Defendant Continental Micronesia Inc.'s memorandum in
5 opposition to plaintiff's motion to strike "Sham" affidavit (filed on
6 January 9, 2004) 2) Defendant Continental Micronesia, Inc.'s motion to
7 strike declaration of Tony H. Ashtiani and exhibit 56 filed January 9,
8 2004, EXHIBIT D.

9
10
11 Therefore, No reply was filed. However once defense had Realized
12 that, Ms. McDonald called me On January 16, 2004, and asked me to set a
13 date for oral argument, I found her call very strange for the forgoing
14 reasons: 1). Ms. McDonald had denied me hearing for our Motion to
15 Strike to be heard on December 30, 2003. 2). Sudden change of course in
16 action from denial to persisting to have a hearing.

17
18 Accordingly, defendant "can not have the cake and eat it too" and
19 Change course of direction in the middle of the motion filing.

20
21 Furthermore, even after Ms. McDonald and I have completed our
22 learning curve (USCA 28 & 1746) her declaration does not state it is
23 "true and correct" because there was no hearing date set on January 16,
24 2004, because I was paying my respect and attending a funeral and I
25

1 even told her so. See Ashtiani's Declaration and Copy of Pacific Daily
2 News page 41.

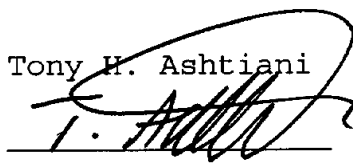
3
4 In accordance with Local Rule 7.1(d)(2), The defendant was
5 required to file an reply by Jan 16, 2004. That day has come and gone,
6 but the plaintiff has not received any reply to his opposition.

7
8 In accordance with the Local Rule 7.1(f), the failure of the
9 Defendant to file an reply memorandum may be deemed a consent to denial
10 to the motion. Accordingly, plaintiff respectfully request that the
11 Court denies the defendant's Motion.

12
13 Motion practice 7.1 (d)(2) and 7.1(f) has been in full force and
14 effect Fargo Pacific, Inc., a Guam Corporation, v. P.W.S International
15 Inc., and Benjamin Poblete. dba Architectural products of California,
16 Civil Case No. 98-00005 District Court of Guam.

17
18 Submitted respectfully,. This 29TH day of January 2004.

19
20 Tony H. Ashtiani

21 
22

23 Pro Se, Plaintiff
24
25

COPY

CARLSMITH BALL LLP

ELYZE McDONALD
DAVID LEDGER
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue, P.O. Box BF
Hagåtña, Guam 96932-5027
Tel No. 671.472.6813

Attorneys for Defendants
Continental Micronesia, Inc.
dba Continental Micronesia
and Continental Airlines, Inc.

FILED
DISTRICT COURT OF GUAM
DEC 30 2003
MARY L. M. MORAN
CLERK OF COURT

Dec. 30, 2003 .
17:00.

IN THE DISTRICT COURT OF GUAM

TONY H. ASHTIANI,

Plaintiff,

vs.

CONTINENTAL MICRONESIA, INC. dba
CONTINENTAL MICRONESIA and
CONTINENTAL AIRLINES, INC.,

Defendants.

CIVIL CASE NO. CIV02-00032

DECLARATION OF SERVICE

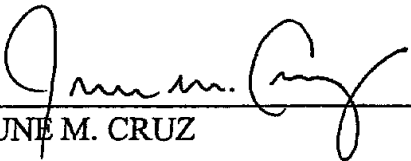
I, June M. Cruz, hereby declare under penalty of perjury of the laws of the United States, that on the 26th day of December 2003, I served a copy of Defendant Continental Micronesia, Inc.'s Reply Memorandum in Support of its Motion to Strike Plaintiff's Unauthenticated Evidence; Defendants Memorandum in Opposition to Plaintiff's Cross-Motion to Strike; and Defendant's Motion to Strike Affidavit of Tony H. Ashtiani and Attached Exhibits 1-55, Filed on December 19, 2003 (Filed 12/24/2003), upon Plaintiff Tony H. Ashtiani.

4839-0676-5824.1.013280-00079

EXHIBIT

I declare under penalty of perjury (6 G.C.A. §4308) that the foregoing is true and correct.

DATED: Hagåtña, Guam, December 26, 2003.



JUNE M. CRUZ

1 Tony H. Ashtiani
2 P.O.Box 12723
3 Tamuning Guam 96931
4 671-688-4844
5 671-653-5575

FILED
DISTRICT COURT OF GUAM
DEC 31 2003
MARY L. M. MORAN
CLERK OF COURT

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF GUAM**

8 Tony H. Ashtiani,
9 Plaintiff,
10 Vs.

11 Continental Micronesia Inc,
12 DbA, Continental Micronesia,
13 Continental Airlines,
14 Defendant.
15

) Civil Case No.: 02-00032
)
)
) PLAINTIFF'S REPLY TO
) DEFENDANT'S OPPOSITION TO
) PLAINTIFF'S COUNTER MOTION TO
) STRIKE. AND OPPOSITION TO
) DEFENDANT'S MOTION TO STRIKE
) AFFIDAVIT OF TONY H.ASHTIANI
) AND ATTACHED EXHIBITS 1-55
) FILED ON DECEMBER 19,2003.
)
)
)
)

16 * * * * *
CARLSMITH BALL

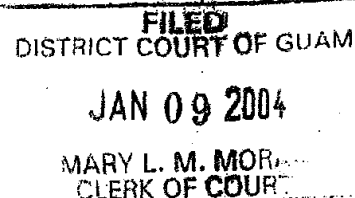
17 Date: 1/2/04
18 Time: 11:2a By: Em

19
20 Plaintiff presents this pleading before the court in reference
21 to pleadings filed by defendant CMI on December 24, 2003 and
22 was served on plaintiff on December 26, 2003.
23
24
25

EXHIBITS
"B"

COPY

1 Tony H. Ashtiani
2 P.O.Box 12723
3 Tamuning Guam 96931
4 671-688-4844
5 671-653-5575



4 **UNITED STATES DISTRICT COURT**

5 **DISTRICT OF GUAM**

6 Tony H. Ashtiani,

7 Plaintiff,

8 Vs.

9 Continental Micronesia Inc,

10 Dba, Continental Micronesia,

11 Continental Airlines,

12 Defendant
13
14
15
16

)
)
) Civil Case No.: 02-00032
)
) PLAINTIFF'S SUPPLEMENTAL
) OPPOSITION TO DEFENDANT'S
) MOTION TO STRIKE AFFIDAVIT OF
) TONY H. ASHTIANI. AND ATTACHED
) EXHIBITS 1-55 ON DECEMBER 19,
) 2003. AND MOTION TO STRIKE
) "SHAM" AFFIDAVITS AND ATTACHED
) EXHIBITS BY DEFENDANT IN
) ATTEMPT TO OBSTRUCT JUSTICE.
)
)

17 Plaintiff Pro se field reply and opposition expeditiously on Dec
18 31, 2003 due to General Order in effect. This supplemental opposition
19 presented to Court in pursuant to Fed R. Civ. P. 15. Defendant has
20 Served plaintiff Motion to strike on December 26, 2003 and is claiming
21 plaintiff's Motion is untimely. Defendant in continues search to
22 harass pro se plaintiff while defendant is also doing the same by
23 serving opposition within 14 days of service.
24
25

CV. 02-00032

Page 1 of 13

RECEIVED
CARLSMITH BALI

Date: 1/9/04

Time: 1:50

y: 5m

EXHIBITS

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

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EMCDONALD@CARLSMITH.COM

December 30, 2003

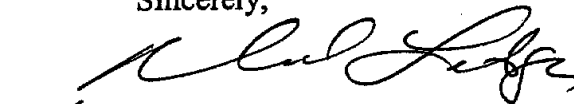
Mr. Tony H. Ashtiani
Post Office Box 12723
Tamuning, Guam 96931

Re: Tony Ashtiani v. Continental Airlines, Inc.
Civil Case No. CV02-0032

Dear Mr. Ashtiani:

As you will have noticed from Continental's response to your Cross-Motion to Strike, Continental believes your Cross-Motion was not timely filed. Continental declines to agree to any hearing date on a Motion that has not been timely filed.

Sincerely,


for Elyze McDonald

EJM/jmc
4822-6908-6720.1.013280-00079

EXHIBIT
"C"

HONOLULU • KAPOLEI • HILO • KONA • MAUI • GUAM • SAIPAN • LOS ANGELES • WASHINGTON, D.C.

COPY

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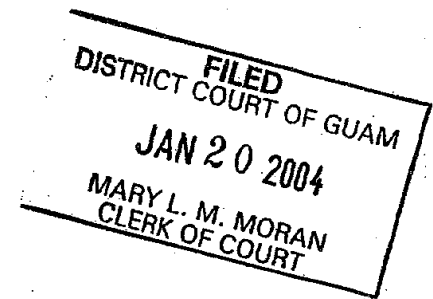
Tel No. 671.472.6813

Attorneys for Defendants

Continental Micronesia, Inc.

dba Continental Micronesia

and Continental Airlines, Inc.



IN THE DISTRICT COURT OF GUAM

TONY H. ASHTIANI,

Plaintiff,

vs.

CONTINENTAL MICRONESIA, INC. dba
CONTINENTAL MICRONESIA and
CONTINENTAL AIRLINES, INC.,

Defendants.

CIVIL CASE NO. CIV02-00032

DECLARATION OF SERVICE

I, June M. Cruz, hereby declare under penalty of perjury of the laws of the United States, that on the 16th day of January 2004, I served a copy of Defendant Continental Micronesia, Inc.'s Motion to Strike Declaration of Tony Ashtiani and Exhibit 56 Filed January 9, 2004 and, Defendant Continental Micronesia, Inc.'s Memorandum in Opposition to Plaintiff's Motion to Strike "Sham" Affidavits (Filed January 9, 2004) (Filed 01/16/2004), upon Plaintiff Tony H. Ashtiani.